



Office of Landlord-Tenant Affairs



What is Ordinary Wear and Tear?



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This publication is available in alternative formats.

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INTRODUCTION

The most common complaint received by the Montgomery County Office of Landlord-Tenant Affairs concerns deductions made by a landlord from a security deposit. This booklet provides landlords and tenants with guidelines and principles for fairly and accurately determining what constitutes ordinary wear and tear versus damage to rental property, and the life expectancy and depreciated value of the most common household fixtures, furnishings and appliances.

The basic obligations and responsibilities for the maintenance and care of the rental property by landlords and tenants are contained in Chapter 29, *Landlord-Tenant Relations*, of the Montgomery County Code, 2001, as amended ("County Code"). The handling and disposition of security deposits is controlled by § 8-203, "Security Deposits," and § 8-203.1, "Security Deposit Receipt," of the Real Property Article, Annotated Code of Maryland, 1999, as amended ("State Code"). We hope that this booklet provides clarification and information that will reduce misunderstandings regarding what a tenant can or cannot be held responsible for at the end of a tenancy.



I. What is a security deposit?

The State Code defines a security deposit as "... any payment of money, including payment of the last month's rent in advance of the time it is due, given to a landlord by a tenant in order to protect the landlord against non-payment of rent, damage due to breach of lease, or damage to the leased premises, common areas, major appliances, and furnishings," in excess of ordinary wear and tear.



Pet cleaning deposits paid by the tenant to the landlord are part of the security deposit, and may NOT be considered "non-refundable" under any circumstances.

A common misconception is that the security deposit is a fund that landlords can access to restore the rental property to the same condition it was in at the beginning of the tenancy, or to make improvements to enhance the value of the property or to prepare it for sale. In reality, the landlord is not to profit from the collection of a security deposit. Rather, the security deposit is to protect the landlord from financial loss at the end of the tenancy due to non-payment of rent, damage due to breach of lease, or damage to the rental property in excess of ordinary wear and tear.

Ordinary wear and tear is deterioration that occurs without negligence, carelessness or abuse of the premises, equipment, furnishings or appliances by the tenant, a member of the household or other persons on the premises with his/her consent.

It is important to remember that a security deposit is, at all times, the tenant's money, held in trust by the landlord.

II. Who is responsible for what?

Before A Tenant Moves In



County Code requires a landlord to “deliver the leased premises and all common areas in a clean, habitable and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws.” In other words, the rental unit must be ready for the new tenant at the beginning of the tenancy and the landlord is to have completed all required maintenance, painting and cleaning.

State Code provides that a new tenant has “the right to have the dwelling unit inspected by the landlord in the tenant’s presence for the purpose of making a written list of damages that exist at the commencement of the tenancy if the tenant so requests by certified mail within 15 days of the tenant’s occupancy.”

Landlords and tenants are encouraged to use the sample Inspection Report located at the back of this booklet when conducting inspections. Use of this checklist will facilitate comparison of the condition of the rental property at the beginning and end of tenancy.

During the Tenancy

The basic obligations and responsibilities regarding maintenance and upkeep of the rental property are contained in the County Code and provide that:

Tenants must:

- Keep the part of the rental property that they occupy and use, clean, sanitary, and safe.
 - A tenant of a single-family rental property must cut any grass and weeds periodically and must not allow grass and weeds to grow more than 12 inches high;
- Remove all rubbish, garbage, and other organic or flammable waste in a clean and sanitary manner from the rental property.

-A tenant of a single-family rental property may be required to provide and maintain appropriate receptacles to remove ashes, rubbish, and garbage;

- Keep all plumbing fixtures as clean and sanitary as their condition permits;
- Use and operate all electrical and plumbing fixtures;
- Not allow their guests to willfully or wantonly destroy, deface, damage, impair, or remove any part of the structure or rental property or the facilities, equipment, or appurtenances; and
- Comply with all covenants, rules, and requirements that are brought to their attention, that they consent to in writing, and that are reasonably necessary to preserve the property of the landlord, other tenants, or any other person.

Landlords must:

- Reasonably provide for the maintenance of the health, safety, and welfare of all tenants and all individuals properly on the premises of the rental property;
- Comply with applicable provisions of federal, state, or county law or regulation regarding the maintenance, construction, use, or appearance of the rental property and common areas;
- Keep all areas of the building, grounds, facilities, and appurtenances in a clean, sanitary, and safe condition;
- Make all repairs and arrangements necessary to keep the rental property in as good a condition as it was, or should by law or agreement have been, when the tenancy began.

-A lease for a single-family rental property may require a tenant to pay up to \$250 per year (a maximum of \$50 for each maintenance occurrence) towards the actual costs to maintain the rental property. The tenant may not be held responsible for replacement of or repairs to structural elements of the building, major appliances, or electrical, plumbing, heating, or air conditioning systems, unless the replacement or repair of these items is required because of the negligence or abuse of the tenant or guests;

- Maintain all electrical, plumbing, and other facilities and conveniences supplied by them in good working order;

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- Provide and maintain receptacles to remove trash, and pay for its frequent removal.

-A lease for a single-family rental property may require a tenant to provide and maintain their own receptacles, and to pay for trash collection service if it is not located in a County collection district and is provided directly by a private trash hauler; and

- Supply water and hot water as reasonably required by the tenant and adequate heat.

-In a rental property located in a common ownership community (homeowner, condominium or cooperative association), the landlord must provide water, hot water and adequate heat to the extent that the landlord is responsible for providing these services.

-A lease for a rental property may require a tenant to pay for gas, heating oil, electricity, water, or sewer service that the tenant uses.

Preparing for the Move-Out

Tenants are expected to leave the rental property in good, clean condition, ordinary wear and tear accepted. Some suggestions to help tenants return the rental property to the landlord in proper condition:

- Remove surface dirt (grease, grime and dust);
- Pay particular attention to cleaning kitchen appliances and bathrooms;
- Remove all items from cupboards and closets;
- Remove all personal items from rental property;
- Sweep and vacuum;
- Replace all burned-out light bulbs and smoke detector batteries;
- Do not spackle walls to fill nail or screw holes or paint walls or trim.

Landlords and tenants are encouraged to review the Move-In/Move-Out Instructions at the back of this booklet for further suggestions.

End of Tenancy Inspection.

State Code provides that a tenant has the right to be present when the landlord inspects the rental property at the end of the tenancy:

- If the tenant wants to be present at the final walkthrough inspection, the tenant must send the landlord a written request to be present.
The request ***MUST:***
 - Be in writing;
 - Be sent by certified mail;
 - Be mailed at least 15 days prior to the date of moving; and
 - Include the date of moving, and the tenant's new address.
- When the landlord receives a request by certified mail for a final walkthrough inspection, the landlord must respond and notify the tenant of the time and date when the premises are to be inspected. The notice ***MUST:***
 - Be in writing;
 - Be sent by certified mail; and
 - Include the date of the walkthrough inspection, which must occur within 5 days before or 5 days after the date of moving as designated in the tenant's notice.
- Failure by the landlord to comply with these requirements, after the tenant has properly requested to be present, forfeits the right of the landlord to withhold any part of the security deposit for damages.

Return of the Security Deposit.

State Code outlines the procedures a landlord must follow in handling and refunding the security deposit:

- If there is no past due rent, no damage due to breach of lease and no damage in excess of ordinary wear and tear caused by the tenant, the security deposit, plus accrued interest, must be returned to the tenant, at his/her last known address, within 45 days after the termination of tenancy.

- Beginning July 1, 1972, State law requires that security deposits be returned with simple interest that accrues at six month intervals, from the date the deposit is received, through the termination of tenancy. Interest required is calculated as follows:

July 1, 1972 – June 30, 1980	3% per year
July 1, 1980 – September 30, 2004	4% per year
October 1, 2004 - Present	3% per year

Example: A \$500 deposit for a tenancy that began on October 1, 2003, and ended on November 30, 2005—2 years and 2 months- accrued simple interest in the amount of 7% as follows:

10/01/03 – 03/31/04= 6 months (2%)=	\$10.00
04/01/04 – 09/30/04= 6 months (2%)=	\$10.00
10/01/04 – 03/31/05= 6 months (1.5%)=	\$ 7.50
04/01/05 – 09/30/05= 6 months (1.5%)=	\$ 7.50
10/01/05— 11/30/05= 2 months (0.0%)=	\$ 0.00*
Total	7.0% \$35.00

*Less than 6 months= 0%

Total security deposit (\$500) plus interest (\$35)=\$535.00.

As of October 1, 2004, the amount of simple interest to be paid was reduced from 4% to 3% per year. Therefore, interest now accrues in six month intervals as follows:

Less than 6 months= 0%
6—11 months = 1.5%
12—17 months = 3.0%
18—23 months = 4.5%
24—29 months = 6.0%
30—35 months = 7.5%
36—41 months = 9.0%, etc

*Note: periods of less than 6 months earn no interest.

- A landlord may withhold all or part of the security deposit for unpaid rent, actual cost incurred to repair damage caused by the tenant in excess of ordinary wear and tear or for other actual costs incurred by the landlord if the tenant has breached the lease (including non-payment of utilities that the tenant is obligated to pay).
- If the landlord withholds any portion of the security deposit for damages, the landlord must send an itemized list of the actual costs incurred to repair that damage to the tenant within 45 days from the end of the tenancy. This itemized list must be sent by *first class* mail to the last known address of the tenant. If the tenant does not provide a forwarding address, the address of the rental property is to be used. In addition to the itemized list of damages, the notice must contain a statement of the costs actually incurred to repair that damage.

III. Helpful Tips



- It is always a good idea to inspect the rental property before signing a lease to make certain it is ready for occupancy. If the rental property is not inspected before moving in, then it is recommended that a tenant request an inspection (by certified mail) with the landlord within 15 days of taking possession.
- Upon taking possession of the rental property, it is also a good idea to take photographs of those areas that might be disputed later (stains in the rug, scratches in wood floors, inoperable appliances, etc.). It is highly recommended that you use a camera that records the date and time.
- Tenants need to notify the landlord immediately of any problems or damages that occur during the tenancy. Landlords should conduct periodic inspections of the rental property, especially during long-term tenancies. Good communication may help the parties prevent escalating damages and costs.
- At any inspection, the landlord and the tenant should note, IN WRITING, the condition of the rental property (A sample inspection form is contained in this booklet).
- It is important to comply with timeframe requirements in handling the security deposit. A technical violation of law could result in the forfeiture of the landlord's right to withhold any part of the security deposit.

IV. What is the difference between ordinary wear and tear and damages?

“Ordinary wear and tear” to one person may be viewed as “abuse” or “damage” to another. In the absence of a definition of ordinary wear and tear in the State Code or County Code, the Landlord-Tenant Commission offers the following:

Ordinary wear and tear means deterioration that occurs without negligence, carelessness or abuse of the premises, equipment, furnishings or appliances by the tenant, a member of his household or other persons on the premises with his/her consent.

The following chart provides some guidelines for distinguishing normal wear and tear from damage:

Ordinary Wear and Tear:	Damage:
Minor marks on or nicks in wall	Holes in wall larger than nail size (picture hanger) or excessive nail holes
Faded, cracked or chipped paint	Crayon marks, writing on walls, unapproved paint color or excessive dirt requiring more than one coat to cover
Plaster cracks from settling	Holes in walls from doorknob or carelessness
Loose wallpaper	Ripped, torn or marked up wallpaper
Carpeting/curtains slightly worn or faded by the sun	Torn, stained or burned carpeting/curtains
A rug worn thin by ordinary use	Stains and odors in rug caused by pets, spills or leaks
Minor scuffing on wood floor	Large gouges or scratches on wood floor

Ordinary Wear and Tear:	Damage:
Vinyl flooring worn thin	Vinyl flooring with tears, holes or burn marks
Water-stained vinyl flooring by shower	Uncleanable tiles or grout
Stains on old porcelain fixtures that have lost their protective coating	Grime-coated bathtub and toilet
Bathroom mirror beginning to "de-silver" (black spots)	Mirrors broken, missing or caked with grime
Toilet running or unstable	Broken toilet seat or tank top
Worn gaskets on refrigerator	Broken refrigerator shelves, trays, bins or bars
Worn countertop	Burns or cuts in countertop
Cabinet doors that will not close	Greasy, sticky or broken cabinets and interiors
Loose hinges or door handles	Damage to door or door frame from forced entry
Closet door off track	Damaged or missing closet door, door-knobs/handles
Slightly dusty blinds	Missing, broken or bent slats on blinds
Slightly dirty windows or screens	Broken windows or torn or missing screens

V. Why is life expectancy of household appliances and fixtures important?

Keep in mind that most fixtures and appliances will someday require replacing and a tenant's financial liability must be based upon the life-expectancy and age of the item. When a household fixture or appliance needs replacing due to tenant abuse or neglect, the remaining "useful life" of the item must be determined before a landlord can assess a portion of the replacement cost against the tenant's security deposit.

Life Expectancy

The following chart provides general guidelines on the life expectancy of a variety of common household appliances and fixtures. The actual useful life of specific items (i.e. "high end" appliances) may be longer or shorter than those reflected on this chart. However, the landlord must be able to justify any charge that is made.

Item:	Average Life Expectancy of Item in Rental Unit (in years):
Refrigerator	15
Stand-alone Freezer	15
Stove	14
Oven	16
Range	16
Range hood	11
Microwave Oven	11

Item:	Average Life Expectancy of Item in Rental Unit (in years):
Disposal	10
Trash Compactor	12
Dishwasher	10
Kitchen Sink	13
Kitchen Countertops	15
Kitchen Cabinets	20
Faucets	15
Bathroom Sink & Vanity	20
Medicine Cabinet	16
Bathtub/Shower	20
Toilet	20
Towel Bar	5
Clothes Washer	13
Clothes Dryer	14
Heat Pump	15
Hot Water Heater, Gas	10
Hot Water Heater, Electric	12
Boiler, Gas	25
Boiler, Electric	25
Furnace, Gas	18
Furnace, Electric	15
Furnace, Oil	20

Item:	Average Life Expectancy of Item in Rental Unit (in years):
Air Conditioning, Room	10
Air Conditioning, Central	15
Dehumidifier	10
Humidifier	8
Smoke Detector	11
Garage Door Opener	10
Carpeting	5
Flooring, Vinyl Sheet or Tile	15
Flooring, Marble	100+
Flooring, Pine or Oak	100+
Wallpaper	7
Interior Painting (the application of 1 coat of paint is considered ordinary wear & tear)	5
Windows	30
Window Screens	30
Venetian Blinds	10
Shades	6
Curtain Rods	8
Closet Doors (folding)	20
Interior Doors	30
Exterior Doors	20
Exterior Paint	7

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Item:	Average Life Expectancy of Item in Rental Unit (in years):
Sidewalk (concrete)	24
Driveway (asphalt)	8
Exterior Light Fixtures	20
Gutters	25
Downspouts	25
Fence	12
Garage Door	35
Patio (brick/concrete)	24
Deck (wooden)	15

VI. How do you calculate tenant responsibility?



Age and Depreciation

Household fixtures and appliances depreciate (decrease in value) at different rates depending on their life expectancy. As a practical matter, Straight-line Depreciation is the preferred method for calculating depreciation. Through this method, the useful life of a household fixture or appliance is expensed evenly over the expected life of the fixture or appliance. For example, if a new toilet costs \$200, and the life expectancy of a toilet is 20 years, the new toilet depreciates at a rate of \$10 each year ($\$200 \div 20 = \10).

Calculating the tenant's portion of the replacement cost of the household fixture/appliance

After determining that an item requires replacement due to tenant abuse or neglect, to calculate the tenant's responsibility, a landlord must first know:

- The actual cost to replace the fixture/appliance
- The life expectancy of the fixture/appliance
- The current age of the fixture/appliance
- The remaining life (life expectancy less current age)
- The remaining percentage value (remaining life divided by life expectancy)

Below are several examples for determining tenant responsibility:

BASIC INFORMATION	CALCULATIONS	TENANT RESPONSIBILITY
Cost of new dishwasher: \$400 Life Expectancy of dishwasher: 10 years Age of dishwasher at end of tenancy: 4 years	Remaining Life = 6 years (10 years less 4 years) Remaining Value = 60% (6 years divided by 10 years)	Tenant Responsibility (\$400 times .60) = \$240
Cost of new washing machine: \$750 Life Expectancy of washing machine: 15 years Age of washing machine at end of tenancy: 4 years	Remaining Life = 11 years (15 years less 4 years) Remaining Value = 73% (11 years divided by 15 years)	Tenant Responsibility (\$750 times .73) = \$547.50
Cost of new carpeting: \$1000 Life Expectancy of carpeting: 5 years Age of carpeting at end of tenancy: 6 years	Remaining Life= 0 years (5 years – 6 years) Remaining Value = 0% (0 years divided by 5 years)	Tenant Responsibility (\$1000 x 0) = \$0

TENANT MOVE-IN/ MOVE-OUT INSTRUCTIONS

1. Inspection(s).

An inspection should be performed with both landlord and tenant present when the tenant moves in, to review any problems or deficiencies at the rental property at the commencement of the tenancy. This will help eliminate problems at the end of the tenancy regarding what conditions were in existence at the commencement of the tenancy.

A move-out inspection should be performed by the landlord. The tenant has the right to be present at the time of inspection to determine if any damage in excess of ordinary wear and tear has been done to the rental property. The tenant needs to notify the Landlord by *certified mail* fifteen (15) days prior to the Tenant's date of moving, if he/she wants to be present for this inspection. The notice must contain the tenant's intention to move, date of moving, and new address. Upon receipt of this notice, the landlord/agent must notify the tenant in writing by *certified mail* of the time and date when the property will be inspected. The inspection date must occur within 5 days before or 5 days after the date of moving as designated in the tenant's notice.

The rental property must be left vacant and clean. The tenant must pay the final water bill or it will be deducted from the security deposit.

2. Utilities.

If you are responsible for paying utilities, you must record the final meter readings as of the last day of the month of occupancy and request that a final bill be sent to your new address. This does not include the final water bill. Make sure the utilities are transferred to the landlord's name. The landlord will make sure that all utilities are transferred to the new tenant/owner after you vacate. **DO NOT REQUEST THAT SERVICE BE TURNED OFF.** If you do, damages may be charged against your account, as would any turn-on/turn-off charges. The telephone numbers for local utilities are:

Electric:

PEPCO: 202-833-7500

Gas:

Washington Gas: 703-750-1000 or 800-752-7520

Allegheny Power: 800-255-3443

Baltimore Gas & Electric: 800-685-0123

Water:

WSSC: 301-206-4001

3. Thermostat Settings.

During spring/summer season (May - September) the thermostat should be set on "cool/auto" at 80 degrees. During the heating season (October - April) the thermostat should be set on "heat/ auto" at 65 degrees. All electrical circuit breakers should be left "on" at move-out.

During the tenancy, heat and air conditioning should be set at whatever settings are comfortable for you and your family.

4. Water Bill.

If you are responsible for paying the water bill, you must contact WSSC with both the indoor and the outdoor meter readings as of the day of your move and request a final bill. WSSC calculates the amount due within three working days. If you do not pay the bill, the amount owed will be deducted from your security deposit.

5. Oil Heat.

It is necessary to refer to your lease agreement for the terms of replacement of heating oil used. If, at the commencement of the tenancy, the tank was full, you may be required to refill it. The lease normally requires that you are responsible for filling the oil tank before you leave. You should provide a copy of the paid receipt to the landlord.

6. Fireplace.

You are responsible for cleaning the fireplace when you vacate the property.

7. Carpets.

Please note carefully the condition of the carpets when you move into the rental property. Some leases require that you clean the carpets when you vacate. Please refer to your lease. If the carpets are not clean when you vacate the rental property and the landlord has the carpets professionally cleaned, the costs incurred could be deducted from your security deposit.

8. Move-Out Condition.

You are required to leave the rental property in a clean condition. Pay particular attention to kitchen appliances and bathrooms. Replace all burned-out light bulbs. In areas where Montgomery County provides trash removal, you can call Solid Waste Services at 240-777-6410 for special trash pick-up. Do not spackle walls to fill nail or screw holes or paint walls or trim.

9. Refrigerator.

Leave the refrigerator "on." You may turn the setting to low/energy saver.

10. Keys.

On the inspection sheet, note what and how many keys, garage door openers, etc., were given to you at move-in .

Return all keys, including mailbox, storage, and laundry room keys, as well as garage door openers, and all parking and pool passes, to the landlord at the time you vacate.

INSPECTION REPORT

Address _____

Move-In Inspection Date ___/___/___ Move-Out Inspection Date ___/___/___

S = Satisfactory; U = Unsatisfactory

KITCHEN	S	U	Move-In Comments	S	U	Move-Out Comments
Refrigerator						
Stove						
Exhaust Fan						
Sink						
Countertop(s)						
Dishwasher						
Disposal						
Cabinets						
Walls						
Floor						
Window(s)						
Screen(s)						
Other						
LIVING ROOM						
Carpeting/ Floor						
Wall(s)						
Window(s)						
Blinds/Shades						
Screen(s)						
Other						
DINING ROOM						
Carpeting/ Floor						
Wall(s)						
Window(s)						
Blinds/Shades						
Screen(s)						
Other						

BEDROOM 1	S	U	Move-In Comments	S	U	Move-Out Comments
Carpeting/ Floor						
Wall(s)						
Closet(s)						
Window(s)						
Blinds/ Shades						
Screen(s)						
Other						
BEDROOM 2						
Carpeting/ Floor						
Wall(s)						
Closet(s)						
Window(s)						
Blinds/ Shades						
Screen(s)						
Other						
BEDROOM 3						
Carpeting/ Floor						
Wall(s)						
Closet(s)						
Window(s)						
Blinds/ Shades						
Screen(s)						
Other						
BASEMENT						
Carpeting/ Floor						
Wall(s)						
Closet(s)						
Window(s)						
Blinds/ Shades						
Screen(s)						
Steps/Railing						
Sump Pump						
Other						

EXTERIOR	S	U	Move-In Comments	S	U	Move-Out Comments
Sidewalk						
Driveway						
Steps/ Railing						
Light fixtures						
Porch						
Gutters/ Down- spouts						
Grass						
Trees/ Shrubbery						
Fence						
Garage						
Shed						
Window Wells						
Patio/Deck						
Sliding Glass Door						
Screen(s)						
Other						
WASHER						
DRYER						
SWITCHES						
OUTLETS						
DOORS						
LOCKS						

COMMENTS _____

Tenant Move-in Date Landlord/Agent Move-In Date

Tenant Move-in Date Landlord/Agent Move-In Date

Tenant Move-in Date Landlord/Agent Move-In Date

Tenant Move-Out Date Landlord/Agent Move-Out Date

Tenant Move-Out Date Landlord/Agent Move-Out Date

Tenant Move-Out Date Landlord/Agent Move-Out Date



We hope that this handbook is useful and helps you to better understand the proper handling and disposition of a security deposit. Should you have questions, Landlord-Tenant Investigators are available to assist you. Please do not hesitate to contact Montgomery County's Office of Landlord-Tenant Affairs at 240-777-3609.



Office of Landlord-Tenant Affairs



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